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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/729,311 | 12/05/2003 | Joseph William Lowry | AN18D3 | 1379 |

7590 04/05/2004

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| EXAMINER |
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LUGO, CARLOS

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| ART UNIT | PAPER NUMBER |
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3677

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,311

Applicant(s)

LOWRY ET AL.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Figures 1a and 2a should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elastic body must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to because of the following informalities:
 - Page 13 Line 27, change "front point 32" as -front point 40-.
 - Page 14 Line 3, change "upper surface 42" as -upper surface 52-.

Appropriate correction is required.

Claim Objections

4. **Claims 49 and 58 are objected** to because of the following informalities:
 - Claim 49 Line 2, delete the phrase "and a lower side" (because claim 47 already claims this limitation in line 3).
 - Claim 58 Line 2, delete the phrase "and a lower side" (because claim 48 already claims this limitation in line 4).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 47,49-52 and 55-57 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,447,005 to Giannuzzi.

Regarding claim 47, Giannuzzi discloses a fastener comprising a substantially flat head portion (10) comprising a first hole (11) and at least a lower side (10a and 10b).

The fastener further comprises a neck (12 and 13) that has an opening and two side neck portions. The neck extends from the lower side of the substantially flat head portion at a substantially right angle with respect to the substantially flat head portion.

Also, the fastener comprises two substantially flat legs (19 and 20) that extend from the neck. Each leg has an inner surface that is at an initial proximity with each other. The legs are expandable in opposite directions upon insertion through the first hole an expansion member (23 and 24), thus bringing the expansion member to a contact region of the legs. Each leg also has a side leg portion.

The fastener further comprises a funnel configuration (14) in the vicinity of the contact region.

And the fastener further comprises at least one high and low barb (15 and 17). The high barb (15) has an origin, at a region selected from the side neck portion and the side leg portion, and a front point which front point substantially reaches or exceeds the lower side. The high barb is directed outwardly away from the legs.

The low barb (17) has an origin, at a region selected from the side neck portion and the side leg portion, and a front point, which front point reaches lower than the lower side of the flat head portion. The low barb is directed outwardly away from the legs.

As to claim 49, Giannuzzi discloses that the head portion of the fastener comprises an upper side.

As to claim 50, Giannuzzi discloses that the head portion of the fastener has a single side corresponding to the lower side (Figure 7).

As to claim 51, Giannuzzi discloses that the first hole is substantially round.

As to claim 52, Giannuzzi discloses that the hole is comprises an oblong opening (Figure 4).

As to claims 55-57, Giannuzzi discloses that the first hole (11) is engageable to the expansion member (23 and 24).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 48,58-61 and 64-66 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,447,005 to Giannuzzi in view of US Pat No 6,709,210 to Lowry et al (Lowry '210).

Giannuzzi fails to disclose that the fastener is used in combination with a vehicle.

Lowry '210 teaches that is known in the art to have a similar spring fastener used in a vehicle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fastener in a vehicle, as taught by Lowry '210, into a device as described by Giannuzzi, because the fact where is going to be used the fastener does not affect the mechanism of it.

As to claim 58, Giannuzzi discloses that the head portion of the fastener comprises an upper side.

As to claim 59, Giannuzzi discloses that the head portion of the fastener has a single side corresponding to the lower side (Figure 7).

As to claim 60, Giannuzzi discloses that the first hole is substantially round.

As to claim 61, Giannuzzi discloses that the hole is comprises an oblong opening (Figure 4).

As to claims 64-66, Giannuzzi discloses that the first hole (11) is engageable to the expansion member (23 and 24).

9. **Claims 53 and 54 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,447,005 to Giannuzzi in view of US Pat No 6,379,092 to Patel et al (Patel).

Giannuzzi fails to disclose that the fastener comprises an elastic body molded at least under the at least lower side of the head of the fastener.

Patel teaches that is known in the art to have a molded elastic body (7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a molded elastic body, as taught by Patel, into a device as described by Giannuzzi, in order to give a sealing protection against the environment where the fastener is used.

10. Claims 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,447,005 to Giannuzzi in view of US Pat No 6,709,210 to Lowry et al (Lowry '210) and further in view of US Pat No 6,379,092 to Patel et al (Patel).

Giannuzzi, as modified by Lowry '210, fails to disclose that the fastener comprises an elastic body molded at least under the at least lower side of the head of the fastener.

Patel teaches that is known in the art to have a molded elastic body (7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a molded elastic body, as taught by Patel, into a device as described by Giannuzzi, as modified by Lowry '210, in order to give a sealing protection against the environment where the fastener is used.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo
Examiner
Art Unit 3677

March 31, 2004.



ROBERT J. SANDY
PRIMARY EXAMINER